

**FINDINGS OF FACT and FINAL ORDER  
TYPE I LAND USE DECISION**

**DATE:** December 8, 2022

**FILE NO.:** 22-049 CART

**PROJECT NAME:** Realtime Coffee

**CART OWNER:** Mandy Hutchinson

**PROPERTY OWNER:** Jerry Carlson (Sandlandia)

**PROPERTY ADDRESS:** 38400 Pioneer Blvd

**LEGAL DESCRIPTION:** T2S R4E Section 13CB Tax Lot 02100

The above-referenced proposal was reviewed as a Type I Food Cart. The following exhibits, findings of fact, and conditions of approval (bold text) explain the proposal.

**EXHIBITS:**

**Applicant's Submission**

- A. Land Use Application (*received 11/15/22*)
- B. Business License Application (*received 12/6/22*)
- C. Food Cart Pictures (*received 11/15/22*)
- D. Sandy Fire District Fire Marshal approval (*received 12/2/22*)
- E. Clackamas County Approval (*received 12/6/22*)
- F. Picture of Fire Extinguisher (*received 12/7/22*)

**FINDINGS OF FACT:**

**General**

1. These findings are based on the applicant's original submittal received on November 15, 2022, and additional items received since the original submission.
2. The subject food cart pod property has a total gross area of approximately 0.26 acres. The site is located east of Bluff Road and south of the existing Shell gas station.
3. The parcel has a Plan Map designation of Commercial and a Zoning Map designation of Central Business District, C-1.

4. The food cart owner of Realtime Coffee proposes to be located at the food cart pod known as Sandlandia. The proposed food cart pod can accommodate up to 10 food carts and five on-site parking spaces. Onsite amenities include electric and water service for each cart, an onsite portable restroom, a garbage enclosure, and a covered structure for common dining.
5. Since this food cart is proposed to be located in an approved food cart pod the application is reviewed as a Type I land use application. Notice of the proposal is not required.

**Section 17.74.90 - Food and Beverage Cart**

6. The food cart pod includes sewer and water service, electrical connections, garbage service, restroom facilities, and a covered structure for common dining. **Realtime Coffee food cart shall hook to existing utilities installed for the food cart pod (including disposal of gray water) and shall have access to garbage service, restrooms, and the covered structure for common dining.**
7. Section 17.74.90 (E)(2) requires that food carts shall not exceed 20 feet in length or greater than 200 square feet. The Realtime Coffee food cart is 8 feet wide by 20 feet in length for a total of 160 square feet.
8. Section 17.74.90 (E)(3) requires all carts to be placed on a paved surface. The food cart pod has a paved surface with approved stormwater facilities. **Realtime Coffee food cart shall be located in a designated food cart area on a paved surface.**
9. Section 17.74.90 (E)(4, 5, and 6) requires carts to be located at least three feet from the public right-of-way or back of sidewalk, at least five feet from other carts, and not located within 25 feet of an active driveway. **Realtime Coffee food cart shall meet all required setbacks.**
10. Section 17.74.90 (E)(7) specifies that food carts shall not occupy fire lanes or drive aisles necessary for vehicular circulation or fire/emergency vehicle access. **Realtime Coffee food cart shall not be located in fire lanes or drive aisles.**
11. Section 17.74.90 (E)(12) states the exterior surface of the cart shall be clean and free of dents, rust, peeling paint, and deterioration, and windows shall not be cracked or broken. The proposed cart was originally installed with rusticated skirting at the base of the cart. Staff contacted the applicant and advised that rust is not allowed. The applicant chose to remove the skirting all together. The proposed cart is painted dark brown with white trim. The cart appears to be in good shape and free of any deterioration.
12. Section 17.74.90 (E)(13) requires that each cart shall provide an awning to shelter customers with a minimum clearance of seven feet between the ground and the awning. Realtime Coffee has eaves that are at 9 feet high and extend 2 feet out.
13. On December 2, 2022, City staff received the following comments from the Sandy Fire District No. 72 Fire Marshall, Gary Boyles: provide picture of mounted fire extinguisher.

On December 7, 2022, the applicant sent a picture (Exhibit F) of a fire extinguisher mounted inside the food cart.

14. In accordance with OAR 333-162-0020, mobile food units must be designed and constructed to move as a single piece. Mobile units may not consist of multiple components that are assembled at the operating location. Realtime Coffee has added a few components, such as the wood decking, that makes moving the mobile food unit as a single piece likely not possible. **Realtime Coffee food cart shall not add any additional components that violate the requirements of OAR 333-162-0020.**
15. Signage is regulated by Chapter 15.32, Sign Code regulations. **All signage requires approval of a City sign permit in compliance with the requirements of Chapter 15.32, Sign Code. Per Section 15.32.080 roof signs are prohibited.**

## **DECISION**

For the reasons described above, the request by Realtime Coffee food cart owner Mandy Hutchinson to locate a food cart in the Sandlandia food cart pod is hereby **approved** as modified by the conditions listed below.

## **CONDITIONS OF APPROVAL**

- A. Prior to receiving a City of Sandy Business License, the applicant shall comply with the following requirements:**
  1. The cart shall hook to existing utilities installed for the food cart pod (including disposal of gray water) and shall have access to garbage service, restrooms, and the covered structure for common dining.
  2. The cart shall be located in a designated food cart area on a paved surface.
  3. The cart shall meet all required setbacks and shall not be located in fire lanes or drive aisles.
- B. General Conditions of Approval**
  1. Drive-through uses are not permitted as food carts.
  2. Food cart permits are valid for the calendar year in which they are issued and will be renewed through a Type I procedure, except if the use was the subject of a City Code Enforcement action. If an enforcement action occurred, the use shall be reviewed at the time of renewal following the Type II review procedure.
  3. This food cart permit shall be subject to revocation by the Director if the application is found to include false information or if the conditions of approval have not been complied with or are not being maintained.

4. Food carts that have not been in use for over 30 days are determined defunct and shall be removed from the private property which they are located.
5. Food carts that have not been in use for over 60 days are determined abandoned and shall be removed in accordance with nuisance regulations as described in Title 8 of the Sandy Municipal Code.
6. All mobile food carts shall be appropriately licensed and approved for operation in Clackamas County as a Class I – IV mobile food cart. Additionally, each food cart shall be inspected by Sandy Fire District No. 72 once per calendar year, as warranted by the Sandy Fire District. Food carts are subject to all applicable city, county, and state regulations.
7. Obtain a sign permit for any requested signage in compliance with the requirements of Chapter 15.32, Sign Code. Per Section 15.32.080 roof signs are prohibited.
8. Carts shall comply with all applicable Oregon Electrical, Mechanical, Plumbing, and Structural Codes.
9. Approval of this use may be revoked if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the structure or site. Any use of the site may be prohibited until such time as all required improvements are completed. Realtime Coffee food cart shall not add any additional components that violate the requirements of OAR 333-162-0020.
10. Any conditions or regulations required by Clackamas County, Sandy Fire District No. 72, or state or federal agencies are hereby made a part of this permit and any violation of these conditions and/or regulations or conditions of this approval will result in the review of this permit and/or revocation.

Rebecca Markham

Rebecca Markham  
Executive Assistant

*(Signed on behalf of Kelly O'Neill Jr., Development Services Director)*

December 8, 2022

Date

## **RIGHT OF APPEAL**

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within 12 calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, "Notice of Appeal", and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.28.50;
5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed;
6. The name and mailing address of the person or entity appealing the decision; and
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal.